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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/044,558	01/11/2002	Jian Fan	10018003-1	9516
22879 7590 06/24/2009 HEWLETT PACKARD COMPANY P O BOX 272400, 3404 E. HARMONY ROAD INTELLECTUAL PROPERTY ADMINISTRATION FORT COLLINS, CO 80527-2400				
EXAMINER				
LE, BRIAN Q				
ART UNIT		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JIAN FAN

Appeal 2009-003275
Application 10/044,558
Technology Center 2600

Mailed: June 24, 2009

Before DALE M. SHAW, *Chief Appeals Administrator*

ORDER REMANDING APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on December 1, 2008. A Docketing Notice was mailed and Appeal No. 2009-003275 was assigned on January 13, 2009. A review of the application has revealed that the application was not ready for an appeal. Accordingly, the application is herewith being remanded to the Examiner. The matter requiring attention is identified below.

Claims 1 to 3 and 5 to 17 of the instant application are set forth as method claims that may not fall with one of the four statutory categories of invention recited in 35 U.S.C. § 101. On May 15, 2008, the Deputy Commissioner for Patent Examining Policy, John J. Love, issued a memorandum entitled “Clarification of “Processes” under 35 U.S.C. § 101.” This memorandum is further used in conjunction with the Interim Guidelines and the Manual of Patent Examining Procedure § 2106.IV.B, when determining whether a claimed invention falls within a statutory category of invention. *See In re Bilski*, No. 2007-1130, ___ F.3d ___, 2008 WL 4757110 (Fed. Cir. Oct. 30, 2008) (en banc). Thus, there is a question as to whether claims 1 to 3 and 5 to 17 meet the requirements of being a patent eligible process under 35 U.S.C. § 101.

Accordingly, it is

ORDERED that the application is remanded to the Examiner to determine if claims 1 to 3 and 5 to 17 meet the requirements of being a patent eligible process under 35 U.S.C. § 101.

If there are any questions pertaining to this order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

babc

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